

## **REMARKS**

### **Summary**

Claims 1-35 stand in this application. Claims 1, 14, 24 and 36 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 14, 24 and 36 in order to facilitate prosecution on the merits.

### **Claim Objections**

Applicant notes the objection to the numbering of the claims on page 2 of the Office Action. Applicant respectfully submits that misnumbered claim 46 has been renumbered correctly as claim 47.

### **35 U.S.C. § 102**

At page 3, paragraph 8 of the Office Action claims 1-8, 14-20, 24-31 and 33-35 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Publication Number 2004/0155909 to Wagner (“Wagner”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for

example. Applicant submits that Wagner fails to teach each and every element recited in claims 1-8, 14-20, 24-31 and 33-35 and thus they define over Wagner. For example, with respect to claim 1, Wagner fails to teach, among other things, the following language:

displaying information in a plurality of dynamically sizable active cells in a display screen of said handheld device; and

dynamically and automatically sizing cells of said plurality of active cells in response to the amount of said information to be displayed in said cells.

According to the Office Action, this language is disclosed by Wagner at figures 8A-8G and paragraph [0089]. Applicant respectfully disagrees.

Applicant respectfully submits that Wagner fails to teach, suggest or disclose the missing language. Wagner at the given cite, in relevant part, states:

In an alternative embodiment, opening the tertiary tray 830 causes the main portion 812 to be rearranged and/or scaled. Rearranging and/or scaling the main portion 812 allows both the tertiary tray 830 and the icons 802, 804, 806, 808 and 810 to be fully displayed as shown in FIG. 8G. In another alternative embodiment, the tertiary tray 830 can "shift" main portion 812 upward to make room for the tertiary tray in the display. Shifting the main portion 812 upward can cause the main portion to appear to run off of the top edge of the display.

In contrast, the claimed subject matter teaches "displaying information in a plurality of dynamically sizable active cells in a display screen of said handheld device; and dynamically and automatically sizing cells of said plurality of active cells in response to the amount of said information to be displayed in said cells." Applicant respectfully submits that this is different than the above recited teaching of Wagner.

Applicant respectfully submits that amended independent claim 1 defines over Wagner. Applicant respectfully submits that Wagner, arguably, teaches rearranging or

scaling a main portion of a display when a tertiary tray is manually opened upon selection of a tertiary tab. Applicant respectfully submits that Figs. 8A-8G of Wagner, arguably, teach a main portion 812 and a tertiary tray 830 wherein the tertiary tray is configured to be in either an open or closed position and the main portion is continuously displayed.

Applicant respectfully submits that when the tertiary tray of Wagner is in the closed position (see Figs. 8A and 8B) and only the main portion is active, Wagner fails to teach at least ““displaying information in a plurality of dynamically sizable active cells in a display screen of said handheld device,” as recited in amended independent claim 1. Applicant respectfully submits that when the tertiary tray of Wagner is in the closed position, Wagner merely discloses one active portion (e.g. main portion 812). Applicant respectfully submits that the language of claim 1 clearly requires “a plurality of dynamically sizable active cells....”

Moreover, Applicant respectfully submits that when the tertiary tray of Wagner is in the open position (see Figs. 8F and 8G) and both the tertiary tray and the main portion are displayed, Wagner still fails to teach the language of amended independent claim 1. While Figs. 8F and 8G of Wagner disclose the main portion and the tertiary tray being displayed at the same time, Applicant respectfully submits that he has been unable to locate any teaching in Wagner directed to “dynamically and automatically sizing cells of said plurality of active cells in response to the amount of said information to be displayed in said cells” as recited in claim 1. In contrast, Applicant respectfully submits that the only resizing in Wagner occurs in response to the manual opening of the tertiary tray. Stated differently, once the tertiary tray of Wagner is opened resulting in more than one portion being displayed, no more resizing is disclosed by Wagner.

Applicant respectfully submits that Wagner additionally fails to teach “dynamically and automatically sizing cells of said plurality of active cells in response to the amount of said information to be displayed in said cells.” Applicant respectfully submits that when both the tertiary tray and the main portion of Wagner are displayed, Wagner fails to teach additional resizing based on the amount of information in either the tray or the main portion. In contrast, Wagner at paragraph [0089] teaches “opening the tertiary tray causes the main portion to be rearranged and/or scaled.” Again, Applicant respectfully submits that Wagner fails to teach resizing of any portion when a plurality of portions are active.

Applicant respectfully submits that Wagner fails to teach each and every limitation of claim 1. Consequently, Wagner fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-8, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Wagner.

Claims 14 and 24 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 14 and 24 are not anticipated and are patentable over Wagner for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 14 and 24. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 15-20, 31 and 33-35 that depend from

claims 14 and 24 respectively, and therefore contain additional features that further distinguish these claims from Wagner.

**35 U.S.C. § 103**

At page 7, paragraph 10 of the Office Action claims 9-13, 21-23 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wagner in view of United States Patent Number 6,297,795 to Kato et al. ("Kato"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references,

taken alone or in combination, fail to teach or suggest every element recited in claims 9-13, 21-23 and 32. Therefore claims 9-13, 21-23 and 32 define over the cited references.

Applicant respectfully submits that if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Applicant respectfully submits, as recited above, that Wagner fails to teach, suggest or disclose each and every element recited in independent claims 1, 14 and 24. Furthermore, Applicant respectfully submits that Kato also fails to teach, suggest or disclose the missing language.

Moreover, Applicant respectfully submits that claims 9-13, 21-23 and 32 depend from independent claims 1, 14 and 24 respectively and contain additional features that further distinguish these claims from the cited references. Accordingly, removal of the obviousness rejection with respect to dependent claims 9-13, 21-23 and 32 is respectfully requested at least on the basis of their dependency from claims 1, 14 and 24. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

For at least the reasons given above, claims 9-13, 21-23 and 32 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 9-13, 21-23 and 32 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

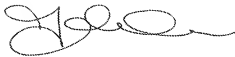
Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-48 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC



---

John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

Dated: October 10, 2007

4500 Brooktree Road, Suite 102  
Wexford, PA 15090  
(724) 933-5529